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OFFICE OF PETITIONS

In re Application of	:	
JAMES C. PEACOCK, III	:	
Application No. 10/724,453	:	DECISION ON PETITION
Filed: November 28, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 51298-00007	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on March 28, 2005¹, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

- (A) That small entity status has been established or include a statement establishing small entity status;
- (B) That the subject of the patent application is a major asset of the small entity; and
- (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

¹ There appears to be a discrepancy in the three-page petition filed on March 28, 2005. The first two pages reference the present application serial number 10/724,453, while page 3 reference an entirely different serial number and inventor name. This petition is being treated as belonging in its entirety to the instant application 10/724,453.

To be granted special status, the application must be related to the field of Biotechnology.

The instant petition fails to meet the requirements set forth above for special status because the invention is not a biotechnology application, and furthermore it lacks item (C).

U.S. Office of Technology Assessment (1984) defines "biotechnology" broadly as "any technique using organisms and their components to make products, modify plants and animals to carry desired traits, or develop micro-organisms for specific uses."

The present invention is directed to a site-specific delivery system of biologically active agents from medical devices such as a stent to blood vessel walls. As a biomedical device, the invention does not meet the definition of biotechnology, and therefore does not fall within the scope of applications relating to biotechnology.

Further correspondence with respect to this matter should be addressed as follows:

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 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
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 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Amelia Au at 571-272-7414.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3731 for action on the merits commensurate with this decision.



Amelia Au
Petitions Examiner
Office of Petitions